

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JORDAN WOLFE, *et al.*,
on behalf of themselves and
others similarly situated

Plaintiffs,

v.

OHIO MULCH SUPPLY, INC, *et al.*,

Defendants.

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Case No. 18-CV-1698

JUDGE ALGENON L. MARBLEY

Magistrate Judge Vascura

ORDER

This matter comes before the Court on the parties' Motion and Stipulation of Conditional Certification. (ECF No. 16). Plaintiffs have brought this suit pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. § 216(b), and ask this Court to conditionally certify a collective action and to authorize the notice to be sent to the putative class members. This Court is advised Defendants do not oppose this Motion.

Accordingly, for the reasons outlined in their motion and for good cause shown, this Court **GRANTS** the Parties' Stipulated Motion. This Court hereby conditionally certifies the following classes:

1. All current and former drivers of Defendants who during the previous three years worked over 40 hours in any work week who were compensated by a flat rate per delivery regardless of how many hours were worked. ("Flat Rate Driver Subclass.")
2. All current and former drivers of Defendants who during the previous three years worked over 40 hours in any work week who were compensated at their normal hourly rate (i.e. straight time) for all hours worked per work week. ("Hourly Rate Driver Subclass.")

Collectively, these two subclasses shall be referred to as "the 216(b) Class" or "216(b) Class Members." Defendants retain the right to move for de-certification at a later date.

The Parties have included the proposed notice form as an exhibit to the Stipulated Motion. (ECF No. 16, Ex. A). This Court hereby **APPROVES** the form and substance of the Notice. This Court also **APPROVES** the form and substance of the “Consent to Join” form, included as an exhibit to the Stipulated Motion. (ECF No. 16, Ex. B). Together, these documents constitute the “Notice Packet.” This Court authorizes this Notice Packet to be sent to putative members of the collective action, and authorizes a 60-day period for individuals to return the Consent Forms from the date the Notices are sent. This time period constitutes the “Notice Period.”

Given the agreement of the Parties, this Court further orders that Defendants shall provide to Plaintiffs: the names, last known address, phone numbers, and location(s) worked for the putative class members as defined above, in Microsoft Excel format. Defendants shall provide this information no later than fourteen days from the date of this Order. During the notice period, Plaintiffs’ counsel shall only use this list to communicate with putative class members as described herein.

Plaintiffs’ Counsel shall send to putative class members the Notice Packet as approved by this Court and shall send nothing further. Plaintiffs’ Counsel shall send the Notice Packet by mail within seven days of receiving the putative class members’ contact information from Defendants. Plaintiffs’ Counsel shall verify the date of postmark with Defendants’ Counsel within one business day of mailing.

All Consent Forms sent to Plaintiffs’ Counsel for filing with the Court must be postmarked or otherwise returned within the Notice Period. If any Notice Packet sent via first-class U.S. Mail is returned to Plaintiffs’ Counsel because of an incorrect mailing address,

Plaintiff's Counsel's firm may call the potential opt-in plaintiff after their Notice Packet is returned in order to obtain their current mailing address.

By stipulation of the parties, neither party shall conduct discovery pursuant to Rule 26 of the Federal Rules of Civil Procedure until a time subsequent to the close of the Notice Period. Within seven days of the close of the Notice Period, the parties shall submit a Rule 26(f) report setting forth dates and deadlines for the Court's consideration.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

Dated: April 3, 2019